

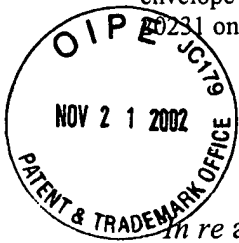
CERTIFICATE OF MAILING (37 CFR 1.8(A))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class Mail in an envelope addressed to Box Fee Amendment, Assistant Commissioner of Patents and Trademarks, Washington, D.C. 20231 on November 15, 2002.

Signed: 

Laura Lee Mosier

#22

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

JOHN H. HEANUE et al.

Serial No. 09/728,212

Filed: November 29, 2000

For: TUNABLE LASER WITH
MICROACTUATOR

Group Art Unit: 2828

Examiner: Rodriguez, Armando

Date: November 15, 2002

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TERMINAL DISCLAIMERTERMINAL DISCLAIMER
APPROVED

Box FEE Amendment
Assistant Commissioner for Patents
Washington, D. C. 20231

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SPECIAL PROGRAM CENTER

Sir:

Petitioner, Iolon, Inc., a corporation duly organized under the laws of the State of Delaware, having its place of business at 1870 Lundy Avenue, San Jose, California 95131, is the owner of 100 percent interest in and to the above-entitled application as evidenced by an Assignment recorded in the U.S. Patent Office on March 12, 2001 at Reel 011588, Frame 0405. The evidentiary documents have been reviewed and to the best of Petitioner's knowledge and belief, title is in the Petitioner.

Petitioner hereby disclaims except as provided below the terminal part of the statutory term of any patent granted on the application which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of U.S. Application Serial No. 09/491,429 filed January 26, 2000. Petitioner hereby agrees that any patent so granted on the present application shall be enforceable only for and during such period that it and the above listed patent are commonly owned. This agreement runs with any patent granted on the above application and is binding on the grantee, its successor or assigns.

11/21/2002 SZEWDIE1 00000078 09728212

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In making the above disclaimer, Petitioner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of the above-listed patent in the event that it later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321, has all claims canceled by a reexamination certificate, is reissued, or is otherwise terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.


I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Title 18, United States Code, §1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

The undersigned, whose title is supplied below, is empowered to act on behalf of the corporation.

Dated: November 15, 2002

Sincerely,

DORSEY & WHITNEY LLP

A handwritten signature in black ink, appearing to read 'Edward N. Bachand', is written over the printed name.

Edward N. Bachand

Registration No. 37,085

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T.D. INFORMAL MEMO: DO NOT MAIL THIS MEMO TO APPLICANT

DATE: 11/27/02

TO: EXAMINER Rodriguez

APPL. S.N.: 09/728 212

FROM: Macaluso, Jo
PARALEGAL SPECIALIST

ART UNIT: 2828

SUBJECT: Decision on Terminal Disclaimer (T.D.) filed: 11/21/02

INSTRUCTIONS: I have reviewed the submitted T.D. with the results as set forth below. If you agree, please use the appropriate form paragraphs identified by this informal memo in your next Office action to notify applicant of the T.D. If you disagree or have any question, please see me or the Special Program Examiner. **THIS IS AN INFORMAL, INTERNAL MEMO ONLY. IT MUST NOT BE (1) MAILED APPLICANT OR (2) PLACED OF RECORD IN THE APPLICATION FILE.**

- ☒ The T.D. is PROPER and has been recorded (see ¶ 14.23).
- ☐ The T.D. is NOT PROPER and has not been accepted for the reason(s) checked below (see ¶ 14.24):
- ☐ The TD fee of has not been submitted nor is there any authorization in the application file for the use of a deposit account (see ¶ 14.26.07).
 - ☐ The T.D. does not satisfy Rule 321 in that the person who has signed the T.D. has not stated the extent of his/her interest (and/or the extent of the interest of the business entity represented by the signature) in the application/patent (see ¶¶ 14.26 & 14.26.01).
 - ☐ The T.D. lacks the enforceable only during common ownership clause -- needed to overcome a non-statutory double patenting rejection, Rule 321(b) (see ¶ 14.27.01).
 - ☐ The T.D. is directed to a particular claim(s), which is not acceptable since "the disclaimer must be for a terminal portion of the term of the entire patent to be granted" (MPEP 1490) (see ¶¶ 14.26 & 14.26.02).
 - ☐ The person who signed the T.D.:
 - ☐ is not an attorney "of record" (see ¶¶ 14.29 and 14.29.01).
 - ☐ has failed to state his/her capacity to sign for the business entity (see ¶ 14.28).
 - ☐ is not recognized as an officer of the assignee (see ¶¶ 14.29 & possible 14.29.02).
 - ☐ No documentary evidence of a chain of title from the original inventor(s) to assignee has been submitted, nor is the reel and frame number specified as to where such evidence is recorded in the Office (see 37 CFR 3.73(b) and 1140 O.G. 72). NOTE: This documentary evidence or the specifying of the reel and frame number may be found in the T.D. or in a separate paper of record in the application (see ¶ 14.30).
 - ☐ The T.D. is not signed (see ¶¶ 14.26 & 14.26.03).
 - ☐ The serial number of the application (or the number of the patent) which forms the basis for the double patenting rejection is missing or incorrect (see ¶ 14.32).
 - ☐ The serial number of this application (or the number of the patent in reexam or reissue cases being disclaimed is missing or incorrect (see ¶¶ 14.26, 14.27.02 or 14.26.05).
 - ☐ The period disclaimed is incorrect or not specified (see ¶¶ 14.26, 14.27.02 or 14.26.03).
 - ☐ Other:
 - ☐ Suggest request refund (see ¶ 14.36). NOTE: If already authorized, credit refund to deposit account and do not check this item.